

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LULAC, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, in his official capacity as
Governor of Texas, *et al.*,

Defendants.

Case No.: EP-21-CV-00259-DCG-JES-JVB
[Lead Case]

***BROOKS* PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION HEARING**

Brooks Plaintiffs seek preliminary relief from this Court enjoining Defendants from implementing state Senate District 10 (SD10) as enacted in SB4 because it is infected with intentional racial discrimination and because race was the predominate redistricting criteria used to draw SD10. *Brooks* Plaintiffs filed suit on November 3, 2021. *See* Compl., ECF 1, 1:21-cv-00991. On November 10, 2021, Defendants moved to consolidate *Brooks* Plaintiffs' case in this court. ECF. 7. The Court granted Defendants' motion on November 19, 2021, ECF 16.

Brooks Plaintiffs respectfully request the Court set a briefing schedule and hearing on their motion for preliminary relief. The deadline for candidates to file to run in current SD10 is December 13, 2021 at 6:00 p.m. Tex. Elec. Code § 41.0075(c)(1); *see also* Texas Secretary of State, *Important 2022 Election Dates*, <https://www.sos.state.tx.us/elections/voter/important-election-dates.shtml#2022>. As part of the preliminary relief, Plaintiffs have requested that the Court re-set the deadlines for candidate filing period for SD10 to allow for a hearing and adjudication of Plaintiffs' motion. Plaintiffs also note that, in setting the election calendar for 2022, the Texas legislature anticipated that adjustments to the primary election schedule, including filing

deadlines, might be necessary and has set forth an alternative schedule for late-enacted plans. *See, e.g.,* Tex. Elec. Code § 41.0075(c)(2), (c)(3) (setting forth two alternative schedules for redistricting plans enacted by the legislature after November 15 and on or before December 28, 2021, and after December 28, 2021, respectively). *Brooks* Plaintiffs' proposed schedule for review of their motion for preliminary relief will ensure they may obtain meaningful relief and are not irreparably harmed by being forced to elect representatives under an unconstitutional and racially discriminatory plan. The proposed schedule will also ensure that Defendants have adequate time to implement any remedy under the alternative schedules already approved by the Texas Legislature.

Specifically, *Brooks* Plaintiffs request that the Court set the following schedule for hearing Plaintiffs' Motion for Preliminary Injunction:

1. Defendants shall file any response to *Brooks* Plaintiffs' Motion by December 6, 2021.
2. *Brooks* Plaintiffs shall file any reply by December 13, 2021.
3. The Court shall set a hearing at the Court's earliest convenience.

November 24, 2021

Respectfully submitted,

/s/ Chad W. Dunn

Chad W. Dunn (Tex. Bar No. 24036507)

Brazil & Dunn

4407 Bee Caves Road

Building 1, Ste. 111

Austin, TX 78746

(512) 717-9822

chad@brazilanddunn.com

Mark P. Gaber*

Mark P. Gaber PLLC

P.O. Box 34481

Washington, DC 20
(715) 482-4066
mark@markgaber.com

Jesse Gaines* (Tex. Bar. No. 07570800)
P.O. Box 50093
Fort Worth, TX 76105
817-714-9988
gainesjesse@ymail.com

*Admitted *pro hac vice*

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 24th day of November, 2021, via the Court's CM/ECF system.

/s/ Chad W. Dunn
Chad W. Dunn